S.B. CIVIL WRIT PETITION NO. 2181/1992

Date of order : 17.08.2007.

HON'BLE MR. RAJESH BALIA, J.

Mr. M.S. Singhvi, for the petitioner.
Mr. L.R. Upadhyay, Dy.G.A. for the respondent.

Heard learned counsel for the petitioner, the petitioner has filed this writ petition for the following prayers.

(i)by an appropriate writ, order or direction, the respondents may be directed to determine the yearwise vacancies for the post of Executive Officer Gr. II, Executive Officer Gr. III as also for the post of Revenue Officer Gr.II and Revenue Officer Gr.I in accordance with Rule 10 of the State Rules of 1963 and to consider the petitioner for regular promotion to the post of Revenue Officer Gr.II against the yearwise vacancies with effect from 1965 and onwards and to grant him promotion to that post accordingly

with all consequential benefits.

(ii)By an appropriate writ,order or direction, the respondents may be directed to determine the vacancies of Commissioner, Municipal Councils in accordance with Rule 10 and consider the petitioner for promotion to the post of Commissioner, Municipal Council w.e.f. 1988 and onwards with all consequential benefits and if the petitioner gets promotion to the post of Revenue Officer Gr. II prior to 1973 then to consider him for the post of Commissioner prior to 1988 with all consequential benefits.

(iii)By an appropriate writ, order or direction the respondents may be restrainedfrom reverting/disturbing the petitioner from his present post of Commissioner, Municipal Council and if during the pendency of the writ petition the respondents do so then their action may be declared

illegal and be quashed with all consequential benefits.

(iv)By an appropriate writ, order or direction the respondents may be directed to fix the petitioner's salary in accordance with Rule 26-A of the Rajasthan Service Rules, 1951 on his promotion to the post of Executive Officer Gr. II w.e.f. 1983 with all consequential benefits including payment of arrears with interest at the rate of 18% per annum.

(v)By an appropriate writ, order or direction, the respondents may be directed to pay salary to the petitioner admissible to Commissioner Municipal Council w.e.f. February 1991 with all consequential benefits along with interest at the rate of 18% per annum.

(vi)By an appropriate writ, order or direction, the words 'Revenue Officer Gr. II' as appearing in

Column No.4 and 7 of Serial No.3 and the entire provision made in Column No.7 of item No.1 of Part II headed 'Technical Officers' of the Schedule be struck down.

(vii)By an appropriate writ, order or direction, in column No.4 and 7 of Serial No.2 of Administrative Officers the word 'Gr. I' be substituted by word 'Gr. II'.

(viii)By an appropriate writ, order or direction, the respondents may be directed to appoint the petitioner on the post of Executive Officer Gr. III w.e.f. From the date of commencement of the State Service Rules of 1963 in terms of the Notification dated 17.01.1972 with all consequential benefits.

(ix)Any other appropriate writ, order or direction, which may be considered to be just and proper in the facts and circumstances of the case, may kindly be issued in favour of the petitioner.

(x)Costs of the writ petition may kindly be awarded in favour of the petitioner.

Since filing of the petition, the petitioner has retired from the post, which he was holding at the time of filing of the writ petition. All prayers except one had become infructuous.

So for as, prayer no. 1 is concerned, it is stated by the learned counsel for the petitioner that all these year no promotions have taken place because no such exercise was carried out by the respondent. Apparently, it is a sad state of affairs.

So far as, validity of the rules is concerned, the same is stated to have been upheld by the Division Bench.

In these circumstances, I deem it just and fair to dispose of this writ petition by directing the respondents to convene the meeting of the D.P.C. to consider for promotion to the post of Executive Officer Grade – I, II, and III as well as for Revenue Officer of Grade – I and II withing six months and consider the promotions to be accorded to officers of the State Municipal Service in accordance with rules by determining vacancies and

consider the case as per rules. The petitioner's case may also be considered at appropriate stage in order of his seniority during this period against available vacancies. If the petitioner is found to be eligible for promotion on next higher post the consequential benefits may be extended to the petitioner by way of fixation. However, it is made clear that until the date of retirement, the fixation will be notional. However, for the increase in the retiral benefits that may arose out of such fixation, he shall be entitled to actual benefits.

No costs.

(RAJESH BALIA)J.

Makawana/